

Before the
Administrative Hearing Commission
State of Missouri



STATE COMMITTEE OF
PSYCHOLOGISTS,

Petitioner,

vs.

FREDERICK GROSSMAN,

Respondent.

No. 98-000735 PS

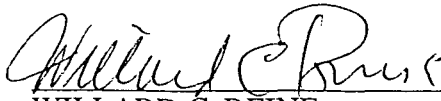
CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo Supp. 1997, gives us jurisdiction.

On July 1, 1998, the parties filed a "Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order With Joint Proposed Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. We find that the facts stipulated are true. We conclude that the licensee is subject to discipline under section 337.035.2(2), (4) and (15), RSMo 1994. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order under Regulation 1 CSR 15-2.450(1)(B). We certify the record to the licensing agency under section 621.110, RSMo 1994.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3, cited above. This is consistent with the holding that we have no role in superintending agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W.2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied.

SO ORDERED on July 7, 1998.


WILLARD C. REINE
Commissioner

FILED
JUL 01 1998
ADMINISTRATIVE HEARING
COMMISSION

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

STATE COMMITTEE OF PSYCHOLOGISTS,
3605 Missouri Boulevard
Jefferson City, MO 65102

Petitioner,

v.

FREDERICK D. GROSSMAN

Respondent.

No. 98-000735PS

JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE ADMINISTRATIVE HEARING COMMISSION AND
STATE COMMITTEE OF PSYCHOLOGISTS AND CONSENT ORDER
WITH JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.450(1)) and pursuant to the terms of § 536.060, RSMo 1994, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 1994, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the State Committee of Psychologist under § 621.135, RSMo 1994, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the psychologists license of Respondent for violations of statutes set forth below.

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the State Committee of Psychologists in this case and the parties submit to the jurisdiction of the Administrative Hearing Commission.

The Respondent acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel; the right to have a copy of the complaint served upon him by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, the Respondent, Frederick D. Grossman, knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

I

Based upon the foregoing, the Petitioner and the Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. The State Committee of Psychologists (the "Committee") is an agency of the state of Missouri created and established pursuant to § 337.050, RSMo 1994, for the purpose of executing and enforcing the provisions of Chapter 337, RSMo.

2. Respondent, Frederick D. Grossman, ("Licensee") is licensed by the Committee as a psychologist, License No. PY00897. Licensee's Missouri license is current and active.

3. On or about April 6, 1993 through on or about April 1994, Licensee knowingly delivered and caused to be delivered by United States mail, claims for insurance benefits to an insurance company, knowing said claims to be false and fraudulent.

4. Licensee mailed these claims for the purpose of defrauding and for obtaining money and property by means of false and fraudulent pretenses, representations and promises.

5. Licensee knew said claims to be false and fraudulent in that Licensee submitted claims for one-hour therapy sessions, when in truth and in fact, the therapy sessions were half-hour sessions or sessions that did not occur.

6. On or about January 26, 1996, Licensee entered into a plea agreement with the United States Attorney's Office.

7. On or about April 15, 1996, the United States District Court for the District of Kansas found Licensee guilty of mail fraud, a Class D felony, based upon Licensee's guilty plea.

8. Under 4 CSR 235-5.030, the ethical rules of conduct governing the practice of psychology state in pertinent part:

2. The psychologist shall not mislead or withhold from any client, prospective client or third-party payor, information about the cost of his/her professional services.

3. The psychologist shall not exploit a client or responsible payor by charging a fee that is excessive for the services performed. . . .

JOINT PROPOSED CONCLUSIONS OF LAW

9. Cause exists for discipline against Licensee's psychologist license pursuant to § 337.035.2(2), (4), (5), and (15) RSMo 1994, which state in pertinent part:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit

or license for any one or any combination of the following causes:

...

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

...

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

....

(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

II

DISCIPLINARY ORDER

I. By agreement of the parties, License No. PY00897 of Frederick D. Grossman ("Licensee") is hereby placed on probation for (3) years. During the disciplinary period Licensee must adhere to the following terms and conditions.

II. REQUIREMENTS FOR AUDIT

- A. At Licensee's expense, Licensee must undergo a financial audit biannually to assess Licensee's billing practices conducted by a certified public account (CPA). Within twenty (20) business days of the effective date of this agreement, Licensee shall submit a list of no less than five (5) proposed CPAs to conduct the audit. The Committee may approve an a CPA from this list, or may require a second list of five (5) CPAs which the Licensee shall submit within twenty (20) business days of the Committee's request. The Licensee must begin the evaluation within thirty (30) days of the Committee's approval. The Licensee must immediately notify the Committee, in writing, of the start date of the evaluation. The audits must be performed biannually from the start date of the evaluation during the disciplinary period.
- B. The written audit must be submitted by the evaluating CPA to the State Committee of Psychologists within sixty (60) days of the audit being

initiated. It shall be Licensee's responsibility to ensure that the written audit is submitted by the evaluating CPA to the State Committee of Psychologists.

- C. The evaluating CPA shall be released to discuss the purpose and methods of the evaluation with a representative of the State Committee of Psychologists prior to performing the evaluation. The evaluation will be pursuant to consultation with the State Committee of Psychologists. While Licensee will pay for the evaluation, the evaluating CPA will work on behalf of the State Committee of Psychologists.
- D. Licensee shall abide by the recommendations of the evaluating CPA set forth in the written report of the audit.
- F. In the event the CPA becomes unable or decides not to continue serving in his/her capacity as a CPA for Licensee during the disciplinary period, then, the Licensee shall:
 - 1. within three (3) business days of being notified of the CPA's inability or decision not to continue serving as the auditor, or otherwise learning of the need to secure a CPA, advise the State Committee in writing that he is needing to secure a CPA and the reasons for such change; and
 - 2. within twenty (20) business days of being notified of the CPA's inability or decision not to continue serving as the CPA or otherwise learning of the need to secure a CPA, secure a CPA pursuant to and

in accordance with the terms and conditions set forth in this agreement.

- G. Licensee must give the State Committee of Psychologists, or its representative, permission to review Licensee's billing records.
- H. Licensee's CPA must report biannually to the State Committee of Psychologists on Licensee's billing practices. It is Licensee's responsibility to ensure that these reports are provided in a timely manner.

III. GENERAL REQUIREMENTS

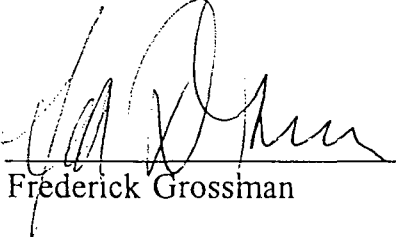
- A. Licensee may not serve as a supervisor for any psychological trainee, psychological intern, psychological resident, psychological assistant, or any person undergoing supervision during the course of obtaining licensure as a psychologist, professional counselor, or social worker.
- B. Licensee must keep the State Committee of Psychologists apprised at all times, in writing, of Licensee's current home and work addresses and telephone numbers.
- C. Licensee is required to pay to the State Committee of Psychologists, in a timely fashion, all requisite fees required by law to renew and keep current Licensee's psychology license in Missouri.
- D. Licensee is required to comply with all provisions of Chapter 337, RSMo, the rules and regulations duly promulgated by the State Committee of Psychologists and state and federal criminal laws.

- E. Licensee must provide periodic reports of Licensee's compliance with this agreement every 6 months.
- F. At Licensee's expense, Licensee must agree to meet with the State Committee of Psychologists at reasonable intervals designated by the Committee.
- G. Upon the expiration of the disciplinary period, the Licensee's license as a psychologist in Missouri shall be fully restored, provided all provisions of this Order and all other requirements of law have been satisfied.
- H. If the State Committee of Psychologists determines that the Licensee has violated a term or condition of his discipline, or has otherwise failed to comply with the provision of Chapter 337 RSMo, which violation would be actionable in a proceeding before the State Committee of Psychologists or the Administrative Hearing Commission or a circuit court, the State Committee of Psychologists may elect to pursue any lawful remedies or procedures afforded to it, and is not bound by this order in the selection of remedies concerning such violation.
- I. Licensee hereby waives and releases the State Committee of Psychologists, its members and any of its employees, agents, or attorneys, including any former Committee members, employees,


agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this joint stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this joint stipulation in that it survives in perpetuity even in the event that any court of law deems this joint stipulation or any portion thereof void or unenforceable.

- J. The parties to this Order understand that the State Committee of Psychologists will maintain this Order as an open record of the Committee as provided in Chapters 337, 610, and 620 RSMo.

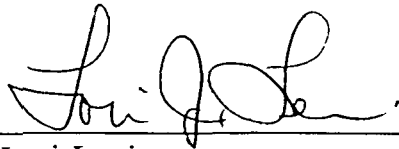
RESPONDENT


Frederick Grossman
6/16/98
date

STATE COMMITTEE OF
PSYCHOLOGISTS


Pamela Groose
Executive Director
6.26.98
date

JEREMIAH W. (JAY) NIXON
Attorney General

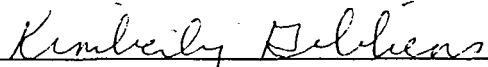


Lori Levine
Attorney at Law
Missouri Bar No. 26172

Carson & Coil, P.C.
515 East High St, P.O. Box 28
Jefferson City, MO 65101

Telephone: 573-636-2177
Facsimile: 573-636-7119

Attorney for Respondent



Kimberly K. Gibbens
Assistant Attorney General
Missouri Bar No. 45710

7th Floor, Broadway State Office Building
221 West High Street
P.O. Box 899
Jefferson City, MO 65102

Telephone: 573-751-1183
Facsimile: 573-751-5660

Attorneys for Petitioner